

JUDGE RATTI

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

08 CV 4771

TALISKER CAPITAL MANAGEMENT, LP,
TALISKER HOLDINGS GP, LLC, TALISKER
DOMESTIC GP, LLC, TALISKER DOMESTIC
FUND, LP, TALISKER OVERSEAS FUND, LTD.
and TALISKER MASTER FUND, LTD.

Plaintiffs,

v.

TALISKER CORPORATION and TALISKER
MOUNTAIN INCORPORATED

Defendants.

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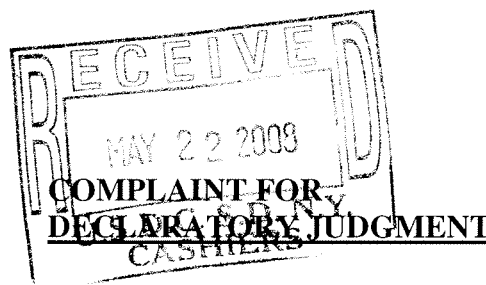
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Plaintiffs Talisker Capital Management, LP, Talisker Holdings GP, LLC, Talisker Domestic GP, LLC, Talisker Domestic Fund, LP, Talisker Overseas Fund, Ltd. and Talisker Master Fund, Ltd. (collectively, "Plaintiffs"), by undersigned counsel, hereby submit this Complaint for Declaratory Judgment and allege, as follows:

NATURE OF THE ACTION AND PROCEEDING

1. This is an action against Talisker Corporation ("Talisker Corp.") and Talisker Mountain Incorporated ("Talisker Mountain", and together with Talisker Corp., "Defendants") seeking a declaratory judgment pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202 for the purpose of determining a question of actual controversy between the parties as more fully set out below.

THE PARTIES

A. The Plaintiffs

2. Plaintiff Talisker Capital Management, LP ("Talisker Capital") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 1500 Broadway, 18th Floor, New York, New York.

3. Plaintiff Talisker Holdings GP, LLC ("Talisker Holdings") is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 1500 Broadway, 18th Floor, New York, New York.

4. Plaintiff Talisker Domestic Fund, LP is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 1500 Broadway, 18th Floor, New York, New York.

5. Plaintiff Talisker Domestic GP, LLC is a corporation organized and existing under the laws of the State of Delaware, with a principal place of business at 1500 Broadway, 18th Floor, New York, New York.

6. Plaintiff Talisker Overseas Fund, Ltd. is a corporation organized and existing under the laws of the Cayman Islands.

7. Plaintiff Talisker Master Fund, Ltd. is a corporation organized and existing under the laws of the Cayman Islands.

B. The Defendants

8. Upon information and belief, Defendant Talisker Corp. is a Canadian corporation having a principal place of business at 145 Adelaide Street West, Suite 500, Toronto, Ontario, Canada M5H 4E5.

9. Upon information and belief, Defendant Talisker Mountain is a Delaware corporation having a principal place of business at 900 Main Street, Suite 6111, Park City, Utah, and is an affiliate of Defendant Talisker Corporation.

JURISDICTION AND VENUE

10. This action arises under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202 and the United States Trademark laws, 15 U.S.C. § 1501 et. seq. An actual, substantial and continuing justiciable controversy exists between Plaintiffs and Defendants concerning trademark rights that requires a declaration of rights by this Court.

11. The Court has subject matter jurisdiction over these claims under 28 U.S.C. §§ 1331, 1338, 1367 and 15 U.S.C. § 1121. Venue is properly laid in this court pursuant to 28 U.S.C. § 1391.

FACTS

Plaintiffs

12. Plaintiff Talisker Capital is a hedge fund investment manager whose business is to provide investment management and administrative services to domestic and offshore hedge funds.

13. Plaintiff Talisker Holdings is the general partner of Plaintiff Talisker Capital, and controls the operations of Talisker Capital.

14. Plaintiff Talisker Domestic GP, LLC is the general partner of Plaintiff Talisker Domestic Fund, LP, and controls its operations.

15. Each of the remaining Plaintiffs is a hedge fund that will be managed by Plaintiff Talisker Capital.

16. Plaintiffs' primary business consists of raising money from sophisticated, high net worth investors and investing that money in private equities, structured debt products and other securities.

17. Plaintiffs do not provide, and do not intend to provide in the future, any services involving the acquisition, divestiture, management or leasing of commercial or residential properties.

18. The minimum investment necessary to invest in Plaintiffs' funds is five million dollars.

19. Plaintiffs' target investors are highly sophisticated, savvy, experienced and well-informed, and only generally commit the substantial minimum investments after careful consideration and consultation with investment and legal advisors. Such investors generally exercise a very high degree of care with respect to their investment decisions, because if they are not investing their own money, they often act as fiduciaries for a third party, such as pension plans, insurance companies or investment groups. Investors or their agents who invest or consider investing in Plaintiffs' funds typically know the principals of the investment vehicles, as well as all pertinent circumstances concerning their investments.

20. The due diligence typically performed by Plaintiffs' target investors includes conducting background checks on Plaintiffs' principals, speaking with Plaintiffs' attorneys and brokers, checking references from other investors, scrutinizing public information on Plaintiffs' investments and looking at Plaintiffs' track records (i.e., performance history).

21. Plaintiffs' investors must be "accredited" under rules promulgated by the Securities and Exchange Commission ("SEC"), requiring that an investor have a net worth in

excess of one million dollars in liquid assets or have earned more than \$200,000 each year for the previous three years.

22. Each of Plaintiffs' investors must also be a "qualified purchaser" as defined by the Investment Company Act of 1940. To be a "qualified purchaser" an individual must own at least \$5 million in assets held for investment purposes and institutional investors must own at least \$25 million in such assets.

23. In addition, under the Securities Act of 1933, in order for Plaintiffs to approach a prospective investor, there must be a substantial pre-existing relationship between Plaintiffs or their agents and that investor.

24. Plaintiffs generally raise capital from potential investors in three ways. First, investors may contact Plaintiffs based on personal or professional referrals. Second, investors may be introduced to Plaintiff through presentations made by Plaintiffs' principals or employees at industry conferences or seminars. Third, investors may hear about Plaintiffs through listings on independent hedge fund databases or articles in trade publications for accredited investors.

25. As Plaintiffs are unregulated entities, the rules of the SEC prohibit Plaintiffs from advertising to the public.

26. Plaintiffs do no print or television advertising, and do not maintain a website.

27. On October 9, 2007, Plaintiff Talisker Capital filed an intent to use trademark application (the "Hedge Fund Services Application"), Serial No. 77/299,142, with the United States Patent and Trademark Office ("PTO") to register the mark TALISKER for use in connection with financial services, namely investment management services, investment

advisory services, and asset management services rendered in connection with the operation of hedge funds ("Plaintiffs' Hedge Fund Services").

28. Plaintiff Talisker Capital selected the "TALISKER" name and mark and filed the Hedge Fund Services Application in the good faith belief that its use of the TALISKER name and mark would not infringe or violate the rights of any other party.

Defendants

29. Upon information and belief, Defendants provide real estate services, specifically the acquisition, development, divestiture, management and leasing of commercial and residential properties ("Defendants' Real Estate Services"). Upon information and belief, Defendants provide these services to highly sophisticated, well-informed individuals who exercise a high degree of care with respect to their real estate purchasing decisions.

30. Defendants' Real Estate Services also include the operation of the Talisker Club, a private membership club and residential development. The Talisker Club membership provides access to "world class amenities and clubhouses" including spas, exclusive restaurants, pools, a golf course, private ski-boats and ski-lifts, and member services. Talisker Club membership is obtained by purchasing real estate in participating communities from Defendants. A description of Defendants and their services is set forth on Defendants' website at www.talisker.com/about/about.php, a copy of which is attached as **Exhibit A**.

31. Upon information and belief, Defendants do not provide or offer asset management services, investment advisory services or investment management services.

32. Upon information and belief, Defendants do not operate hedge funds or mutual funds, and do not manage other people's money.

33. Upon information and belief, Defendants adopted the mark TALISKER for use with Defendants' Real Estate Services with knowledge of the use of the mark on other, unrelated goods, including without limitation TALISKER brand single malt scotch whiskey.

34. Upon information and belief, Defendants use the mark TALISKER, and permutations thereof, to promote, advertise and market Defendants' Real Estate Services and no other services.

35. Upon information and belief, Defendants do not use the mark TALISKER to promote, advertise or market asset management services, investment advisory services or investment management services.

36. Upon information and belief, Defendants do not use the mark TALISKER to promote, advertise or market hedge funds, mutual funds or the management of other people's money.

37. Defendants own a number of word and design marks incorporating the TALISKER designation, including the following registrations and applications with the PTO:

- (a) U.S. Trademark Registration No. 3,096,055 for the word mark TALISKER;
- (b) U.S. Trademark Registration No. 3,012,537 for the design mark TALISKER CORPORATION;
- (c) U.S. Trademark Application, Serial No. 76/676,936 for the word mark TALISKER MOUNTAIN INCORPORATED; and
- (d) U.S. Trademark Application Serial No. 76/682,786 for the design T TALISKER DEER VALLEY.

38. These pending applications and issued registrations (collectively, "Defendants' Class 36 TALISKER Filings") identify limited services in International Class 36 (Insurance and Financial Services), in particular: "investment and real estate services, namely the acquisition, divesture, management, and leasing of commercial and residential properties."

39. The services identified in Defendants' Class 36 TALISKER Filings and in Defendants' other PTO filings do not include asset management services, investment advisory services or investment management services.

40. Defendants have registered and operate the domain names www.talisker.com and taliskerclub.com, which they use to advertise and promote Defendants' Real Estate Services. The websites operated at these domain names make no reference to asset management services, investment advisory services, or investment management services.

41. On January 16, 2008, the PTO cited three of the Defendants' Class 36 TALISKER Filings in initially refusing registration of Plaintiffs' Hedge Fund Services Application.

42. Upon information and belief, Defendants have never used and have never had an intent to use the TALISKER mark in connection with investment services rendered to others. Notwithstanding the foregoing, Defendants have averred in the prosecution of Defendants' Class 36 TALISKER Filings that they have used or have had a bona fide intent to use the TALISKER mark in connection with investment services, which investment services must be rendered to others in order to support the issuance of a trademark registration. Upon information and belief, Defendants knew or should have known that such statements were false.

43. Upon information and belief, but for such false statements of material fact, Defendants would have no basis upon which to rely to obtain registration for the Class 36 services included in Defendants' Class 36 TALISKER Filings.

44. Upon information and belief, but for such false statements of material fact, neither Registration No. 3,096,055 for the word mark TALISKER, nor Registration No.

3,012,537 for the design mark TALISKER CORPORATION would have issued, and Defendants would have lacked a sufficient filing basis for any of their PTO filings with respect to the Class 36 services included in Defendants' Class 36 TALISKER Filings.

45. Defendants' TALISKER marks are not famous.

Controversy

46. On or about May 6, 2008, Plaintiffs received a "cease and desist" letter from Defendants' counsel, dated April 4, 2008. A copy of the April 4 letter is attached as **Exhibit B**.

47. On or about May 8, 2008, Plaintiffs received a second "cease and desist" letter from Defendants' counsel, dated May 6, 2008. A copy of the May 6 letter is attached as **Exhibit C**.

48. With knowledge of Plaintiffs' Hedge Fund Services Application, and despite the fact that PTO records indicate that Plaintiffs are represented by counsel in connection therewith, Defendants addressed both letters to Plaintiffs' listed address, rather than to their counsel.

49. Both letters' accusations, demands and threats, and those set forth in a third letter sent on May 14, have given rise to a case of actual controversy within the jurisdiction of this Court pursuant to 28 U.S. C. § § 2201-2202.

50. The letters claim that Plaintiff's use of the mark TALISKER would unfairly trade on the goodwill of Defendants, would dilute the Defendants' Marks, and would be likely to cause confusion, or mistake or deceive the public in violation of Section 43 of the Lanham Act and related laws.

51. The April 4 letter demanded that Plaintiffs immediately discontinue any and all use of the TALISKER name in connection with financial services, and immediately terminate their corporate name registrations. The letter further stated that if Plaintiffs did not comply, Defendants would pursue legal and equitable remedies, including injunctive relief and monetary damages.

52. The May 6 letter reiterated the claims of the April 4, letter, and stated that if Plaintiffs did not comply, Defendants would pursue all available remedies, including the filing of a lawsuit.

53. On May 13, 2008, Plaintiffs' counsel contacted Defendants' counsel by telephone to discuss the possibility of resolving the matter without the need for litigation. Counsel discussed the possibility of coexistence based upon the disparate nature of the parties' services.

54. On May 14, 2008, Plaintiffs' counsel received a letter from Defendants' counsel which referenced the May 13 telephone call. The letter rejected Plaintiffs' exploratory settlement overture, and threatened that if Defendants did not "receive written confirmation of Talisker Capital's discontinuance of the use of the word 'Talisker' by Thursday May 22, 2008 [Defendants] will proceed with legal action." A copy of this letter is attached as **Exhibit D**.

55. Plaintiffs categorically deny that their use of the TALISKER name and mark violates any federal or state rights Defendants may have to the TALISKER name and mark.

COUNT I
Declaratory Judgment
Noninfringement of Defendants' Federal TALISKER Marks

56. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 55 above.

57. This is an action for declaratory judgment of noninfringement of any federal or state rights Defendants may have in the name and mark TALISKER.

58. Plaintiffs have an objectively reasonable apprehension that Defendants will continue to pursue their allegations of infringement against Plaintiffs by instituting a lawsuit.

59. Defendants have alleged, and continues to allege, that Plaintiffs' intended use of TALISKER as a mark or as part of a trade name in connection with Plaintiffs' Hedge Fund Services infringes or violates Defendants' rights to the TALISKER name or mark.

60. Plaintiffs deny Defendants' allegations. Plaintiffs use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not and will not infringe or violate any rights Defendants have in the TALISKER name or mark.

61. One or more of Defendants' Class 36 TALISKER Filings stands as a barrier to the issuance of a registration for the mark TALISKER for Plaintiffs' Hedge Fund Services.

62. Accordingly, there exists an actual judicial controversy between Plaintiffs and Defendants concerning whether Plaintiffs are infringing or violating Defendants' rights in the TALISKER mark.

63. To afford relief from the uncertainty and controversy which Defendants' assertions have precipitated, Plaintiffs are entitled to a declaratory judgment of their rights under 28 U.S.C. §§ 2201-2202 that Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not infringe or violate any rights Defendants might have under 15 U.S.C. § 1501 et. seq., including 15 U.S.C. § 1125(a).

COUNT 2
Declaratory Judgment -
Noninfringement of Defendants' Common Law TALISKER Marks

64. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 63 above.

65. Plaintiffs are entitled to a declaratory judgment of their rights under 28 U.S.C. §§ 2201-2202 that Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not violate any rights Defendants might have pursuant to the common law of trademarks and unfair competition.

COUNT 3
Declaratory Judgment -
No Federal Dilution of Defendants' TALISKER Marks

66. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 65 above.

67. This is an action for declaratory judgment that Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services will not dilute Defendants' TALISKER mark.

68. Plaintiffs have an objectively reasonable apprehension that Defendants will continue to pursue their allegations of dilution against Plaintiffs by instituting a lawsuit.

69. Defendants' TALISKER mark does not meet the famous mark requirement of 15 U.S.C. § 1125(c)(1).

70. Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services will not lessen Defendants' TALISKER mark's capacity to identify and distinguish Defendants' Real Estate Services.

71. Accordingly, there exists an actual judicial controversy between Plaintiffs and Defendants concerning whether Plaintiffs' use of TALISKER would dilute Defendants' TALISKER mark.

72. To afford relief from the uncertainty and controversy which Defendants' assertions have precipitated, Plaintiffs are entitled to a declaratory judgment of their rights under 28 U.S.C. §§ 2201-2202 that Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not dilute Defendants' TALISKER mark under 15 U.S.C. § 1125 (c)(1).

COUNT 4
Declaratory Judgment -
No State Law Dilution of Defendants' TALISKER Marks

73. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 72 above.

74. To afford relief from the uncertainty and controversy which Defendants' assertions have precipitated, Plaintiffs are entitled to a declaratory judgment of their rights under 28 U.S.C. §§ 2201-2202 that Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not dilute Defendants' TALISKER mark in violation of the New York antidilution law, N.Y. GEN. BUS. LAW § 360-1 (2003), as well as the antidilution laws of the several states including: Alabama,

ALA. CODE §8-12-17 (2003); Alaska, ALASKA STAT. §45.50.180 (Michie 2002); Arizona, ARIZ. REV. STAT. ANN. §44-1448.01 (West 2003); Arkansas, ARK. CODE ANN. §4-71-213 (20002); California, CAL. BUS. & PROF. CODE §14330 (West 2003); CONNECTICUT, CONN. GEN. STAT. ANN. §35-11i(c) (West 2003); DELAWARE, DEL. CODE ANN. tit. 6 §3313 (2002); Florida, FLA. STAT. ANN. §495.151 (West 2003); Georgia, GA. CODE ANN. §10-1-451 (2003); Hawaii, HAW. REV. STAT. ANN. §482-32 (Michie 2003); Idaho, IDAHO CODE ANN. §48-513 (Michie 2002); Illinois, 765 ILL. COMP. STAT. ANN. 1036/65 (2003); Iowa, IOWA CODE ANN. §548.113 (West 2003); Kansas, KAN. STAT. ANN. §81-214 (2002); Louisiana, LA. REV. STAT. ANN. §51.223.1 (West 2003); Maine, ME. REV. STAT. ANN. tit. 10, §1530 (West 2003); Massachusetts, MASS. GEN. LAWS. ANN. ch. 110B, §12 (West 2003); Minnesota, MINN. STAT. ANN. §333.285 (West 2003); Mississippi, MISS. CODE. ANN. §75-25-25 (2003); Missouri, MO. ANN. STAT. §417.061(1) (West 2002); Montana, MONT. CODE ANN. §30-13-334 (2003); Nebraska, NEB. REV. STAT. ANN. §87-140 (Michie 2002); New Hampshire, N.H. REV. STAT. ANN. §350-A:12 (2003); New Jersey, N.J. STAT. ANN. 56:3-13.20 (West 2003); New Mexico, N.M. STAT. ANN. §57-3B-15 (Michie 2002); Oregon, OR. REV. STAT. §647.107 (2001); Pennsylvania, 54 PA. CONS. STAT. ANN. §1124 (West 1996); Rhode Island, R.I. GEN. LAWS §6-2-12 (1992); South Carolina, S.C. CODE ANN. §39-15-1165 (2002); Tennessee, TENN. CODE ANN. §47-25-513 (2003); Texas, TEX. BUS. & COM. CODE ANN. §16.29 (Vernon 2003); Utah, UTAH CODE ANN. §70-3a-403 (2002); Washington, WASH. REV. CODE ANN. §19.77.160 (2003); West Virginia, W.VA. CODE ANN. 47-2-13 (Michie 2003); and Wyoming, WYO. STAT. ANN. §40-1-115 (Michie 2002).

COUNT 5

Cancellation or Partial Cancellation of Defendants' Class 36 PTO Registrations

75. Plaintiffs incorporate by reference the allegations in paragraphs 1 through 74 above.

76. Defendants' statements in their PTO filings concerning the use or intended use of the TALISKER mark in connection with investment services are false statements of material fact that Defendant knew or should have known were false.

77. Defendants' false statements of material fact constitute fraud on the PTO. Therefore Defendants' Class 36 TALISKER Filings should be cancelled and/or be declared void ab initio and/or amended to delete therefrom the Class 36 services.

CONCLUSION AND PRAYER

WHEREFORE, Plaintiffs request that the Court find in its favor and against Defendants, and that the Court grant Plaintiffs the following relief:

A. A judgment declaring that Plaintiffs' use of the trademark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not violate any rights Defendants might have under 15 U.S.C. § 1051 et. seq., including 15 U.S.C. § 1125(a) or the laws of the several states.

B. A judgment declaring Plaintiffs' use of the mark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services does not violate any rights Defendants might have pursuant to the common law of trademark and unfair competition.

C. A judgment declaring that the Plaintiffs' use of the trademark TALISKER or a TALISKER formative trade name in connection with Plaintiff's Hedge Fund Services is not

likely to cause confusion as to source, sponsorship or affiliation between Plaintiffs and Defendants or their respective services.

D. A judgment declaring that Plaintiff's use of the trademark TALISKER or a TALISKER formative trade name in connection with Plaintiffs' Hedge Fund Services will not dilute Defendants' TALISKER marks under federal or state law.

E. An order directing the PTO to cancel U.S. Trademark Registration Nos. 3,096,055 and 3,012,537 or in the alternative to partially cancel these registrations to remove therefrom the Class 36 investment services based upon fraud on the PTO.

F. An order directing the PTO to treat U.S. Trademark Application Serial Nos. 76/676,936 and 76/682,786 as void ab initio or in the alternative to amend the description of services therein to delete the class 36 services.

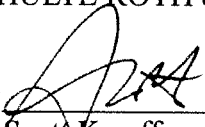
G. An award of Plaintiffs' costs and disbursements.

H. Such other and further equitable or legal relief as the Court deems proper.

Dated: New York, New York
May 21, 2008

SCHULTE ROTH & ZABEL LLP

By:



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Attorneys for Plaintiffs

EXHIBIT A

EXPERIENCE

LIFE

HOMES & HOMESITES

AT A GLANCE

CONTACT US



ABOUT

Talisker Mountain Incorporated is a private real estate development firm based in Park City, Utah and is a fully owned subsidiary of Talisker Corporation, a private global real estate development firm based in Toronto, Ontario, Canada. Talisker Corporation has over two decades of experience developing numerous real estate projects in the United States, the United Kingdom, Canada, the Bahamas and Eastern Europe.

A prominent name in Park City since 1999, Talisker Mountain Incorporated, one of the area's premier residential developers, provides property owners with the opportunity to be part of an all-inclusive private club that features the ultimate in member services and amenities.

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EXHIBIT B

Clark K. Taylor
Direct 801.237.0425
ctaylor@vancott.com



April 4, 2008

Talisker Capital Management, LP
Talisker Holdings GP, LLC
93 Glenmere Drive
Chatham, New Jersey 07928

Re: Trademark Infringement

Dear Madam or Sir:

This law firm represents Talisker Corporation and related entities ("Talisker") in connection with intellectual property issues and other legal matters.

Talisker is the owner of a U.S. trademark registration for the mark TALISKER for use in connection with "investment and real estate services, namely, the acquisition, divestiture, management, and leasing of commercial and residential properties" and "real estate development services in connection with commercial and residential properties." Talisker is also the owner of numerous other U.S. trademark applications and registrations for marks which prominently include the TALISKER name. A copy of these is enclosed.

Talisker has continuously and extensively used its TALISKER mark in connection with its investment and real estate services in the United States and Canada since at least 2000. By virtue of its continuous and extensive use of its mark, Talisker has obtained widespread recognition of the TALISKER mark as designating Talisker and its investment and real estate services.

It has recently come to our attention that you have registered the names Talisker Holdings GP, LLC and Talisker Capital Management, LP with the State of Delaware. You have also filed an intent-to-use application to register the TALISKER name as a federal trademark for use in connection with "financial services, namely investment management services, investment advisory services and asset management services rendered in connection with the operation of hedge funds." We are aware that the Patent and Trademark Office has refused registration of this application on the grounds that it would create a likelihood of confusion with our client's mark. We concur.

Please be advised that your use of a mark identical to our client's mark for use in connection with closely related and overlapping services will inevitably result in a likelihood of confusion among relevant consumers. The public recognition and goodwill that our client has attained and fostered for its TALISKER mark will be threatened and eroded by your company's continued use of the TALISKER name. Such usage unfairly trades on the goodwill established by our client, dilutes its mark, is likely to cause confusion, or mistake, or to deceive the public, and is in violation of Section 43 of the

VANCOTT, BAGLEY,
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Talisker Capital Management, LP
Talisker Holdings GP, LLC
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VANCOTT

Lanham Act and other related laws, to the substantial and irreparable harm of our client.

We therefore must tender this formal demand on behalf of our client that you immediately discontinue any and all business usage and trademark or service mark usage of the TALISKER name in connection with financial services, including but not limited to investment or real estate services, or anything else confusingly similar thereto, and that you immediately terminate the registration of Talisker Holdings GP, LLC and Talisker Capital Management, LP with the State of Delaware. Should you fail to immediately and voluntarily cease and desist the illegal infringement of Talisker's intellectual property and terminate said state registrations, Talisker will have no option but to pursue any and all legal and equitable remedies available to it, including but not limited to injunctive relief and monetary damages.

In view of the importance of this matter to our client, we must receive your written reply no later than April 21, 2008, expressly acceding to the requirements stated herein.

This correspondence is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Sincerely,

A handwritten signature in black ink, appearing to read "Clark K. Taylor", with a stylized flourish at the end.

Clark K. Taylor

CKT:nmd
Enclosures



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Goods and Services

IC 036. US 100 101 102. G & S: INVESTMENT AND REAL ESTATE SERVICES, NAMELY, THE ACQUISITION, DIVESTITURE, MANAGEMENT, AND LEASING OF COMMERCIAL AND RESIDENTIAL PROPERTIES. FIRST USE: 20000300. FIRST USE IN COMMERCE: 20000300

IC 037. US 100 103 106. G & S: REAL ESTATE DEVELOPMENT SERVICES IN CONNECTION WITH COMMERCIAL AND RESIDENTIAL PROPERTIES. FIRST USE: 20000300. FIRST USE IN COMMERCE: 20000300

Standard Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial Number

76558491

Filing Date

November 10, 2003

Current Filing Basis

1A

Original Filing Basis

1B

Published for Opposition

April 5, 2005

Registration Number

3096055

Registration Date May 23, 2006

Owner (REGISTRANT) **Talisker** Corporation CORPORATION CANADA 145 Adelaide Street West, Suite 500 Toronto, Ontario CANADA M5H 4E5

Attorney of Record Christie Baty Heinze

Type of Mark SERVICE MARK

Register PRINCIPAL

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Word Mark	TALISKER CORPORATION
Goods and Services	IC 036. US 100 101 102. G & S: INVESTMENT AND REAL ESTATE SERVICES, NAMELY, THE ACQUISITION, DIVESTITURE, MANAGEMENT, AND LEASING OF COMMERCIAL AND RESIDENTIAL PROPERTIES
	IC 037. US 100 103 106. G & S: REAL ESTATE DEVELOPMENT SERVICES IN CONNECTION WITH COMMERCIAL AND RESIDENTIAL PROPERTIES
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	01.07.01 - Globes with outlines of continents 26.01.02 - Circles, plain single line; Plain single line circles 26.01.08 - Circles having letters or numerals as a border; Circles having punctuation as a border; Letters, numerals or punctuation forming or bordering the perimeter of a circle 26.01.09 - Circles having animals as a border; Circles having geometric figures as a border; Circles having humans as a border; Circles having objects as a border; Circles having plants as a border; Geometric figures, objects, humans, plants or animals forming or bordering the perimeter of a circle. 26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles
Serial Number	76558492
Filing Date	November 10, 2003
Current Filing Basis	44E
Original Filing	

Basis 1B;44D
Published for Opposition August 16, 2005
Registration Number 3012537
Registration Date November 8, 2005
Owner (REGISTRANT) **Talisker** Corporation CORPORATION CANADA 145 Adelaide Street West Suite 500 Toronto, Ontario CANADA M5H 4E5
Attorney of Record Christie Baty Heinze
Priority Date May 9, 2003
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CORPORATION" APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TALISKER FITNESS & SP

Word Mark

TALISKER FITNESS & SPA

Goods and Services

IC 041. US 100 101 107. G & S: Health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; physical fitness consultation; physical fitness conditioning classes; physical fitness instruction. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400

IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit offered at a health resort; health spa services, namely, cosmetic body care services; nutrition counseling; vitamin therapy; dermatology services; hair implantation, replacement and removal services; hairdressing salons; tanning salons; nail care salons; skin care salons; massage services; medical testing services, namely, fitness evaluation. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400

Standard Characters Claimed**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

Serial Number 76682733**Filing Date** October 9, 2007**Current Filing Basis** 1A**Original Filing Basis** 1A**Owner** (APPLICANT) Talisker Mountain Incorporated CORPORATION DELAWARE 900 Main Street, Suite 6111 Park City UTAH 84060

Attorney of Record Nicole M. Deforge
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FITNESS & SPA" APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark.
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TALISKER TOWER

Word Mark TALISKER TOWER

Goods and Services IC 041. US 100 101 107. G & S: Mountain and ski resort services, namely, providing mid-mountain facilities for skiers, providing ski instruction; health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; physical fitness consultation; physical fitness conditioning classes; physical fitness instruction

IC 043. US 100 101. G & S: Restaurant and bar services; coffee-house and snack-bar services; cocktail lounges

IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit offered at a health resort; health spa services, namely, cosmetic body care services; nutrition counseling; vitamin therapy; dermatology services, namely, cosmetic dermatology services in the nature of topical skin treatments; hair implantation, replacement and removal services; hairdressing salons; tanning salons; nail care salons; skin care salons; massage services; medical testing services, namely, fitness evaluation

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
 02.07.01 - Groups, males
 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
 21.03.05 - Poles, ski; Ski poles; Skis, snow and water

Serial Number 76677808

Filing Date June 4, 2007

Current Filing Basis 1B

Original Filing Basis 1B

Owner (APPLICANT) **Talisker** Mountain Incorporated CORPORATION UTAH 340 Main Street, Suite 203
Park City UTAH 84060

Attorney of Record Nicole M. Deforge

Prior Registrations 3195527;3200170

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TOWER" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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TALISKER TOWE

Word Mark
Goods and Services

TALISKER TOWER

IC 041. US 100 101 107. G & S: Mountain and ski resort services, namely, providing mid-mountain facilities for skiers, providing ski instruction; health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; physical fitness consultation; physical fitness conditioning classes; physical fitness instruction. FIRST USE: 20070201. FIRST USE IN COMMERCE: 20070201

IC 043. US 100 101. G & S: Restaurant and bar services; coffee-house and snack-bar services; cocktail lounges. FIRST USE: 20070201. FIRST USE IN COMMERCE: 20070201

IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit offered at health resort; health spa services, namely, cosmetic body care services; nutrition counseling; vitamin therapy; dermatology services, namely, cosmetic dermatology services in the nature of topical skin treatments; hair implantation, replacement and removal services; hair dressing salons; tanning salons; nail care salons; skin care salons; massage services; medical testing services, namely, fitness evaluation. FIRST USE: 20070201. FIRST USE IN COMMERCE: 20070201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76677761

Filing Date June 4, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) **Talisker** Mountain Incorporated CORPORATION UTAH 340 Main Street, Suite 203
Park City UTAH 84060

Attorney of Record Nicole M. Deforge

Prior Registrations 3195527;3200170

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TOWER" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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TALISKER STATION

Word Mark	TALISKER STATION
Goods and Services	IC 039. US 100 105. G & S: Vehicle parking; valet parking; parking space reservation services; rental of parking spaces; ski resort services, namely, providing locker rentals and storage for ski equipment. FIRST USE: 20070201. FIRST USE IN COMMERCE: 20070201 IC 043. US 100 101. G & S: Restaurant and bar services; coffee-house and snack-bar services; cocktail lounges. FIRST USE: 20070201. FIRST USE IN COMMERCE: 20070201
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	76676971
Filing Date	May 16, 2007
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	April 22, 2008
Owner	(APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 340 Main Street, Suite 203 Park City UTAH 84060
Attorney of	Nicole M. Deforge

Record

Prior Registrations 3195527;3200170
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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**Word Mark**

TALISKER CLUB DEER VALLEY

Goods and Services

IC 041. US 100 101 107. G & S: Recreational and resort services, namely providing facilities for golf, golf practice, tennis, swimming, horseback riding, and fitness activities; providing ski resort services, namely providing mid-mountain facilities for skiers; entertainment and educational services, namely, instruction in golf, tennis, swimming, golf and tennis tournaments. FIRST USE: 20050500. FIRST USE IN COMMERCE: 20050500

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

03.13.02 - Bones (animals, four-footed mammals); Skeletons (animals, four-footed mammals); Skulls (animals, four-footed mammals)
 06.01.04 - Mountains (landscapes); Scenery with mountains
 24.05.01 - Circular or elliptical seals; Seals, circular or elliptical
 26.01.05 - Circles made of broken or dotted lines
 26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles
 26.01.21 - Circles that are totally or partially shaded.

Serial Number

76651024

Filing Date

November 28, 2005

Current Filing Basis

1A

Original Filing Basis

1A

Published for Opposition

October 24, 2006

Registration Number 3195527

Registration Date January 9, 2007

Owner (REGISTRANT) **Talisker** Deer Valley Corporation CORPORATION DELAWARE 340 Main Street, Suite 203 Park City UTAH 84060

(LAST LISTED OWNER) **TALISKER** MOUNTAIN INCORPORATED CORPORATION DELAWARE 900 MAIN STREET SUITE 6111 PARK CITY UTAH 84060

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Nicole M. Deforge

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "DEER VALLEY" APART FROM THE MARK AS SHOWN

Description of Mark The mark consists of the literal portions "DEER VALLEY" and "TALISKER CLUB" on a circular design portion centrally bearing depictions of stylized ski runs in front of stylized mountains.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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TALISKER MOUNTAIN INCORPORATED

Word Mark TALISKER MOUNTAIN INCORPORATED
Goods and Services IC 036. US 100 101 102. G & S: Investment and real estate services, namely, the acquisition, divestiture, management, and leasing of commercial and residential properties. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

IC 037. US 100 103 106. G & S: Real estate development services in connection with commercial and residential properties. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76676936

Filing Date May 16, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 340 Main Street, Suite 203 Park City UTAH 84060

Attorney of Record Nicole M. Deforge

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MOUNTAIN INCORPORATED" APART FROM THE MARK AS SHOWN

Type of Mark Register SERVICE MARK
PRINCIPAL

Live/Dead
Indicator

LIVE

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TALISKER
DEER VALLEY

Word Mark T TALISKER TALISKER DEER VALLEY

Goods and Services IC 036. US 100 101 102. G & S: Investment and real estate services, namely, the acquisition, divestiture, management, and leasing of commercial and residential properties. FIRST USE: 20070300. FIRST USE IN COMMERCE: 20070300

IC 037. US 100 103 106. G & S: Land development and real estate services, namely the planning and laying out of residential ski resort communities and commercial properties. FIRST USE: 20070300. FIRST USE IN COMMERCE: 20070300

IC 041. US 100 101 107. G & S: Recreational and resort services, namely providing facilities and equipment golf, golf practice, tennis, swimming, horseback riding, fitness activities, hiking, watersports, cross-country skiing, mountain biking, and snowshoeing; entertainment and educational service in the nature of instruction in golf, tennis, swimming, horseback riding, hiking, fishing, watersports, cross-country skiing, mountain biking, and snowshoeing; horseback riding camps; golf and tennis tournaments; ski resort services, namely providing mid-mountain facilities for skiers; health club services, namely providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; physical fitness consultation; physical fitness conditioning classes; physical fitness instruction. FIRST USE: 20070300. FIRST USE IN COMMERCE: 20070300

IC 043. US 100 101. G & S: Restaurant and bar services; coffee-house and snack-bar services; cocktail lounges. FIRST USE: 20070300. FIRST USE IN COMMERCE: 20070300

IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit offered at a health resort; health spa services, namely, cosmetic body care services; nutrition counseling; vitamin therapy; dermatology services; hair implantation, replacement and removal services;

hairdressing salons; tanning salons; nail care salons; skin care salons; massage services; medical testing services, namely, fitness evaluation. FIRST USE: 20070300. FIRST USE IN COMMERCE: 20070300

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
Search Code 02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen
02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
05.03.02 - Oak leaf
05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches
21.03.05 - Poles, ski; Ski poles; Skis, snow and water
24.09.07 - Advertising, banners; Banners
26.01.05 - Circles made of broken or dotted lines
26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles

Serial Number 76682786

Filing Date October 10, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Talisker Mountain Incorporated CORPORATION DELAWARE 340 Main Street, Suite 203 Park City UTAH 84060

Attorney of Record Nicole Deforge

Prior Registrations 3012537;3096055;3195527;3200170;AND OTHERS

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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TALISKER SPA

Word Mark TALISKER SPA**Goods and Services** IC 041. US 100 101 107. G & S: Health club services, namely providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; physical fitness consultation; physical fitness conditioning classes; physical fitness instruction. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400

IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit offered at a health resort; health spa services, namely, cosmetic body care services; nutrition counseling; vitamin therapy; dermatology services; hair implantation, replacement and removal services; hairdressing salons; tanning salons; nail care salons; skin care salons; massage services; medical testing services, namely, fitness evaluation. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400

Standard Characters Claimed**Mark Drawing Code** (4) STANDARD CHARACTER MARK**Serial Number** 76682734**Filing Date** October 9, 2007**Current Filing Basis** 1A**Original Filing Basis** 1A**Owner** (APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 900 Main Street, Suite 6111

Park City UTAH 84060

Attorney of Record Nicole M. Deforge
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TALISKER CLUB
DEER VALLEY

Word Mark TALISKER CLUB DEER VALLEY T TALISKER

Goods and Services IC 039. US 100 105. G & S: Arranging and conducting horseback riding, hiking, sightseeing, snowshoeing, mountain biking, fishing, watersport, and cross-county skiing expeditions, excursions, and day trips; tour guide services; travel and tour information service. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

IC 041. US 100 101 107. G & S: Recreational and resort services, namely providing facilities and equipment for golf, golf practice, tennis, swimming, horseback riding, fitness activities, hiking, watersports, crosscountry skiing, mountain biking, and snowshoeing; entertainment and educational service in the nature of instruction in golf, tennis, swimming, horseback riding, hiking, fishing, watersports, cross-country skiing, mountain biking, and snowshoeing; horseback riding camps; golf and tennis tournaments; ski resort services, namely providing mid-mountain facilities for skiers; health club services, namely providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; physical fitness consultation; physical fitness conditioning classes; physical fitness instruction. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

IC 043. US 100 101. G & S: Restaurant and bar services; coffee-house and snack-bar services; cocktail lounges. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

IC 044. US 100 101. G & S: Health spa services for health and wellness of the body and spirit offered at a health resort; health spa services, namely, cosmetic body care services; nutrition counseling; vitamin therapy; dermatology services; hair implantation, replacement and removal services; hairdressing salons; tanning salons; nail care salons; skin care salons; massage services; medical testing services, namely, fitness evaluation. FIRST USE: 20061100. FIRST USE IN COMMERCE: 20061100

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
 02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen
 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
 05.03.02 - Oak leaf
 05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches
 21.03.05 - Poles, ski; Ski poles; Skis, snow and water
 24.09.07 - Advertising, banners; Banners
 26.01.05 - Circles made of broken or dotted lines
 26.01.18 - Circles, three or more concentric; Concentric circles, three or more; Three or more concentric circles

Serial Number 76682732

Filing Date October 9, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 900 Main Street, Suite 6111 Park City UTAH 84060

Attorney of Record Nicole M. Deforge

Prior Registrations 3096055;3195527;3200170

Description of Mark Color is not claimed as a feature of the mark.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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TALISKER CLUB PARK

Word Mark TALISKER CLUB PARK
Goods and Services IC 041. US 100 101 107. G & S: Physical fitness instruction services; health club services; country club services, namely providing facilities for golf, golf practice, tennis, swimming, volleyball, basketball; entertainment and educational services, namely, instruction in golf, tennis, and swimming; recreational park services, namely, providing playground and picnic areas. FIRST USE: 20070500. FIRST USE IN COMMERCE: 20070500

IC 044. US 100 101. G & S: Spa services in the nature of skin care services and treatments, massage therapies, body wraps, aromatherapy, nail manicuring services and body, hand and foot treatments. FIRST USE: 20070500. FIRST USE IN COMMERCE: 20070500

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76682730

Filing Date October 9, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 900 Main Street, Suite 6111 Park City UTAH 84060

Attorney of Record Nicole M. Deforge

Prior Registrations 3096055;3195527;3200170
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TALISKER GOLF

Word Mark	TALISKER GOLF
Goods and Services	IC 041. US 100 101 107. G & S: Golf courses; golf club services; rental of golf equipment; golf instruction; golf caddy services. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	76682669
Filing Date	October 5, 2007
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 900 Main Street, Suite 6111 Park City UTAH 84060
Attorney of Record	Nicole M. Deforge
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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TALISKER OUTPOS

Word Mark TALISKER OUTPOST
Goods and Services IC 039. US 100 105. G & S: Arranging and conducting horseback riding, hiking, sightseeing, snowshoeing, mountain biking, and cross-country skiing expeditions, excursions, and day trips; tour guide services; travel and tour information service. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400

IC 041. US 100 101 107. G & S: Recreational and resort services, namely providing facilities, equipment, and trails for horseback riding, hiking, cross-country skiing, mountain biking, and snowshoeing; entertainment and educational service in the nature of instruction in horseback riding, hiking, cross-country skiing, mountain biking, and snowshoeing; horseback riding camps. FIRST USE: 20070400. FIRST USE IN COMMERCE: 20070400

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76682667

Filing Date October 5, 2007

Current Filing Basis 1A

Original Filing Basis 1A

Owner (APPLICANT) Talisker Mountain Incorporated CORPORATION UTAH 900 Main Street, Suite 6111 Park City UTAH 84060

Attorney of
Record Nicole M. Deforge
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead
Indicator LIVE

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TALISKER CLUB

Word Mark TALISKER CLUB
Goods and Services IC 041. US 100 101 107. G & S: Recreational and resort services, namely providing facilities for golf, golf practice, tennis, swimming, horseback riding, and fitness activities; providing ski resort services, namely providing mid-mountain facilities for skiers; entertainment and educational services, namely, instruction in golf, tennis, swimming, golf and tennis tournaments. FIRST USE: 20050500. FIRST USE IN COMMERCE: 20050500

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 76651017

Filing Date November 28, 2005

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition November 7, 2006

Registration Number 3200170

Registration Date January 23, 2007

Owner (REGISTRANT) **Talisker** Deer Valley Corporation CORPORATION DELAWARE 340 Main Street,
Suite 203 Park City UTAH 84060

(LAST LISTED OWNER) **TALISKER** MOUNTAIN INCORPORATED CORPORATION DELAWARE
900 MAIN STREET SUITE 6111 PARK CITY UTAH 84060

**Assignment
Recorded** ASSIGNMENT RECORDED

**Attorney of
Record** Nicole M. Deforge

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CLUB" APART FROM THE MARK AS
SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

**Live/Dead
Indicator** LIVE

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EXHIBIT C

VANCOTT

THOMAS R. BARTON
Direct Dial: 801.237.0234
email: tbarton@vancott.com

May 6, 2008

VIA CERTIFIED AND FIRST-CLASS U.S. MAIL

Talisker Capital Management, LP
Talisker Holdings GP, LLC
93 Glenmere Drive
Chatham, NJ 07928

VANCOTT, BAGLEY,
CORNWALL &
MCCARTHY, P.C.

ESTABLISHED 1874

Re: Trademark Infringement

Dear Sir or Madam:

This firm represents Talisker Corporation and related entities ("Talisker") in connection with intellectual property issues and other legal matters. On or about April 4, 2008, we sent you a letter regarding the illegal and infringing use by Talisker Capital Management, LP and Talisker Holdings GP, LLC of the TALISKER name. A copy of the letter and attachments is included herewith. As we stated in our letter, Talisker is the owner of a U.S. trademark registration for the mark TALISKER in connection with "investment and real estate services and residential properties" and "real estate development services in connection with commercial and residential properties." Talisker is also the owner of numerous other U.S. trademark applications and registrations for marks which prominently include the TALISKER name.

In our letter, we asked that you immediately discontinue your use of the TALISKER name, and that you terminate the registrations of Talisker Capital Management, LP and Talisker Holdings GP, LLC with the State of Delaware. We also asked that you respond no later than April 21, 2008. To date, we have not received a response.

Talisker reiterates the demands made in the April 4 letter. Please respond in writing no later than May 21, 2008, and confirm that you have discontinued your use of the TALISKER name and terminated the aforementioned registrations. If Talisker does not receive such a response by May 21, 2008, it intends to pursue all available remedies—including the filing of a lawsuit.

36 S. STATE STREET
SUITE 1900
SALT LAKE CITY, UTAH
84111-1478 USA
T 801.532.3333
F 801.534.0058
WWW.VANCOTT.COM

LAW OFFICES
SALT LAKE CITY
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PARK CITY
LAS VEGAS

MEMBER
LEX MUNDI
THE WORLD'S LEADING ASSOCIATION
OF INDEPENDENT LAW FIRMS

Talisker Capital Management
May 6, 2008
Page 2

VANCOTT

This correspondence is written without prejudice to our client's rights and remedies, all of which are expressly reserved.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas R. Barton", with a stylized flourish at the end.

Thomas R. Barton

TRB:bbm
Enclosures

EXHIBIT D



THOMAS R. BARTON
Direct Dial: 801.237.0234
email: tbarton@vancott.com

May 14, 2008

VIA FACSIMILE, ELECTRONIC AND U.S. MAIL

Scott M. Kareff, Esq.
Schulte Roth & Zabel
919 Third Avenue
New York, NY 10022

VANCOTT, BAGLEY,
CORNWALL &
MCCARTHY, P.C.
ESTABLISHED 1874

**Re: Trademark Infringement: Talisker Capital Management, LP
and Talisker Holdings GP, LLC**

Dear Mr. Kareff:

Thank you for your telephone call on Tuesday, May 13, 2008. Based on your call, it is my understanding that Schulte Roth represents both Talisker Capital Management, LP and Talisker Holdings GP, LLC (collectively "Talisker Capital"), with regard to the trademark infringement issues raised by our clients, Talisker Corporation and related entities ("Talisker"). In the future, we will direct our correspondence on this matter to you.

After our conversation, I consulted with Talisker regarding your clients' position and your suggestion that Talisker Capital refrain from doing business in real estate matters or real estate investment matters. It is Talisker's position that your clients' use of the name "Talisker" is an infringing use. Any proposal that Talisker Capital agree to refrain from certain investment services, but still use the name "Talisker" in conjunction with investment services in general, will not be acceptable to Talisker. We reiterate our demand that Talisker Capital stop using the name "Talisker" immediately, and that it terminate all business registrations under that name. If we do not receive written confirmation of Talisker Capital's discontinuance of the use of the word "Talisker" by Thursday, May 22, 2008, Talisker will proceed with legal action.

Sincerely,

Thomas R. Barton

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